

# A Strategic Look

**Axiom**  
Human Resource Solutions

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## Axiom Updates

- **10% off** all Benefit Administration products through the end of June! This includes the enrollment platform, carrier connections, and COBRA administration. Contact Toni at 317-587-1019x103 for details!

## Upcoming Trainings

June 28: [Sexual Harassment](#)  
July 12: [Succession Planning](#)  
July 26: [Attestation Module](#)

For Access to previously recorded trainings, [click here](#).

## MEET THE TEAM

We are very excited to announce our newest member to the Axiom team, Bill Cathcart! For over 20 years, Bill has been a leader in working side-by-side with clients to find solutions that add value. As our new Vice President of Sales, he manages all aspects of sales and marketing for Axiom throughout the United States.



Prior to joining the Axiom team, Bill worked in the professional employer organization industry where he gained a wealth of knowledge about human capital management as well as how each company has its own unique aspects that requires a customized approach.

For a full biography on Bill, and the rest of the Axiom team, [click here!](#)

## Answers to Common Questions

*with Kelly Mead*

**Q:** Can we hire someone as a 1099 Contractor if we don't want to offer them benefits?

**A:** There is a strict set of guidelines that employers should use to determine whether or not a worker should be classified as an employee or an independent contractor. It is common for employers to misclassify workers in error but many misclassify employees in order to reduce labor costs and avoid paying local, state and federal taxes.

The independent contractor relationship looks more like a vendor relationship than an employee-employer relationship. A true independent contractor provides a good or service to another individual or business, often under the terms of a contract that dictates work outcomes. There are several key factors that should be taken into consideration when classifying a worker:

1. Behavioral - Does the company control or have the right to control the worker as well as how the worker does their job?
2. Financial - Are the business aspects of the worker's job controlled by the payer? (How a worker is paid, are expenses reimbursed, who provides tools and supplies, etc.)
3. Type of Relationship - Are there written contracts or employee benefits? (Retirement, insurance, paid time off, etc.)

There are fines and legal consequences associated with classifying a worker incorrectly. Axiom typically recommends when in doubt, classify the worker as an employee. Misclassifying a worker can result in hefty fines and penalties. For more information, the U.S. Department of Labor has a great [Fact Sheet](#) that further explains the employment relationship.

## Answers to Common Questions Continued...

**Q:** I keep hearing about more states that are banning the practice of asking candidates about their salary history. Is this legal in Indiana?

**A:** As of the date of this publication, there are no restrictions regarding asking about salary history in Indiana.

There is a growing list of states and localities that have banned this practice. The purpose of these laws is to end the cycle of gender and racial disparities in compensation. They serve an important purpose. Basing current salary on past positions can perpetuate the salary differential each time an underpaid candidate changes jobs.

The following is a running list of states and localities that have banned some aspect asking about a candidate's salary history. Axiom recommends reading the full regulation since each varies slightly:

1. California
2. San Francisco (Bars disclosing of current or former employee's salary without written authorization.)
3. Connecticut
4. Delaware (Employers prohibited from screening applicants based on pay but can confirm prior salary after an offer has been made.)
5. Chicago (City departments may not ask for applicants' salary history.)
6. Louisville (City agencies may not ask for applicants' salary history.)
7. New Orleans (City agencies may not ask for applicants' salary history.)
8. Massachusetts (Cannot request salary history but can confirm if information is voluntarily offered or verify after a job offer has been extended.)
9. New Jersey
10. New York (State-wide ban on asking about salary history until job offer has been made.)
11. New York City (Prohibited from asking about previous pay or benefits and if employer already has that information, it cannot be used to set pay.)
12. Albany County NY (Employers barred from asking about past compensation and benefits until after a job offer has been extended.)
13. Westchester County NY (Limited circumstances to confirm prior pay.)

Even in areas that have banned asking about salary history, you can certainly still ask a candidate about their salary expectations and conduct salary negotiations.

**Q:** Do we have to pay our employees for a mandatory training if it's a lunch and learn?

**A:** In general, yes. An employee should be compensated for any time spent on the job when the employee is subject to the employer's control and direction.

**Q:** Are we required to give employees advance notice of mandatory overtime?

**A:** Absent a collective bargaining agreement that states otherwise, there is no federal requirement for an employer to give employees advance notice of mandatory overtime. Some states have laws that require proper notice or allow exemptions on overtime in certain professions. Other federal and state laws have specific limitations on the number of hours that can be worked (e.g., trucking industry, workers under age 18, etc.) so be sure to check all regulations that apply. Indiana and California, in general do not require advanced notice of mandatory overtime.

This information which is summarized is general in nature and is not intended to constitute legal advice. If you need an HR consultation specific to your circumstances, contact Kelly Mead, Director of Human Resource Services at 317-587-1019.

